

### REMARKS

The June 12, 2007, Official Action has been carefully reviewed. In light of the following amendments and remarks, favorable reconsideration and allowance of the application are respectfully requested.

At the outset, it is noted that a shortened statutory response period of three (3) months was set forth in the June 12, 2007, Official Action. Therefore, the initial due date for response is September 12, 2007. This response is being filed one month prior to the expiration of the initial 3 month response period. Applicant also notes that the Examiner has stated claims 2 and 68-71 appear to be allowable.

As another preliminary matter, Applicant notes that the Examiner has withdrawn the §102 rejection based on 13mer peptide of Sivukumaran et al. In the previous response, Applicant stated that the claims were novel over Sivukumaran at least because the claims contained the core sequence of SEQ ID NO: 1. To clarify, the claims are directed to this sequence as well as a sequence that contains at least 6 identical residues to SEQ ID NO: 1 the peptide being up to 10 amino acid in length. See claim 12, clause c. It is respectfully submitted that inasmuch as the claim reads on a composition which contains peptides up to 10 amino acids in length which contain at least 6 residues which are identical to SEQ ID NO: 1, the claimed subject matter is clearly novel over the 13mer peptide disclosed by Sivukumaran et al. as this was a mere database entry and is not contemplated for use in a pharmaceutical composition.

The Examiner has maintained the rejection of claims 3, 12, 15, and 65-66 under 35 U.S.C. §112, first paragraph,

for allegedly failing to comply with the written description requirement. Specifically, the Examiner contends that the claims refer to a peptide only by function.

At page 5 of the Official Action, claims 3, 12, 15, and 65-66 remain rejected under 35 U.S.C. §112, first paragraph, because the specification allegedly does not provide reasonable enablement for the claimed subject matter.

Claims 3, 12, 15-16 and 65-67 are rejected under 35 U.S.C. §112, second paragraph as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention.

The foregoing rejections constitute all of the grounds set forth in the June 12, 2007, Official Action for refusing the present application. In view of the amendments and arguments set forth in this response, Applicant respectfully submits that the rejections under 35 U.S.C. §112, first and second paragraph, of claims 3, 12, 15-16, and 65-67 as set forth in the June 12, 2007, Official Action cannot be maintained.

**CLAIMS 12 AND 15, AS AMENDED, SATISFY THE WRITTEN  
DESCRIPTION REQUIREMENT OF 35 U.S.C. § 112, FIRST PARAGRAPH**

The Examiner has maintained the rejection of claims 3, 12, 15, and 65-66 for failing to satisfy the written description requirement of 35 U.S.C. §112, first paragraph. It is the Examiner's position that the claims contain subject matter which was not described in such a way as to reasonably convey to a skilled artisan that the inventor had possession of the claimed invention at the time of filing the application. Specifically, the Examiner asserts

that the claims refer to a peptide only by function.

Applicant respectfully disagrees with the Examiner's position for the reasons already of record. However, in the interest of expediting prosecution of the instant application, Applicant has cancelled claims 3, 65, and 66, and also amended claim 12 to include the limitation that the peptide is "up to 10 amino acids in length" comprising the amino acid sequence of YLTQPQS (SEQ ID NO:1). Claim 15 incorporates this amendment through its dependency on claim 12. Support for this amendment can be found in claim 67, which has not been rejected to by the Examiner for inadequate written description. It is clear that the specification contains an adequate written description of this subject matter and indeed, the Examiner appears to agree as claim 67 was not included in the rejection under 35 U.S.C. §112, first paragraph.

In light of the foregoing remarks and claim amendments, it cannot be reasonably maintained that the specification does not provide a full written description of the claimed subject matter to satisfy 35 USC §112, first paragraph. Accordingly, Applicant respectfully requests that the rejection of claims 12 and 15 as amended be withdrawn.

**CLAIMS 12 AND 15, AS AMENDED, SATISFY THE ENABLEMENT  
REQUIREMENT OF 35 U.S.C. § 112, FIRST PARAGRAPH**

The Examiner has rejected claims 3, 12, 15, 65, and 66 for failing to satisfy the enablement requirement of 35 U.S.C. §112, first paragraph. Specifically, the Examiner asserts that the specification fails to provide guidance for a skilled artisan of how to make and/or use the claimed invention, and that undue experimentation would be required

to practice the invention as claimed.

Applicant continues to dispute the Examiner's contention that practice of the present invention requires undue experimentation. However, in the interest of expediting prosecution of the instant application, Applicant has amended the claim 12 to recite that the peptide is "up to 10 amino acids in length." Support for this amendment can be found in claim 67; Applicant notes that the Examiner, as above, has not made an enablement rejection against claim 67, which requires that the peptide is "up to 10 amino acids in length." Applicant submits that claim 15 depends from claim 12, and reiterates that rejected claims 3, 65, and 66 have been cancelled.

In light of all the foregoing, Applicants submit that the present claims are enabled. Accordingly, the rejection of the claims under §112, first paragraph for inadequate enablement is untenable and should be withdrawn.

**CLAIMS 12, 15, 16, AND 67, AS AMENDED, SATISFY THE  
REQUIREMENTS OF 35 U.S.C. §112, SECOND PARAGRAPH**

The Examiner has rejected claims 3, 12, 15-16, and 65-67 under 35 U.S.C. §112, second paragraph for alleged indefiniteness. Specifically, it is the Examiner's position that claims 3 and 12 are indefinite because it is unclear if the peptide is binding to Nogo, Nogo 66, and MAG simultaneously or binding to each of Nogo, Nogo 66, and MAG individually. Claims 15-16, and 65-67 are included in this rejection because they are dependent on claims 3 and 12.

The relevant inquiry in determining whether a given claim satisfies the requirements of 35 U.S.C. §112, second paragraph, is whether the claim sets out and circumscribes a particular area with a reasonable degree of precision and

particularity such that the metes and bounds of the claimed invention are reasonably clear. In re Moore, 169 U.S.P.Q. 236 (CCPA 1971). Applicants respectfully submit that with respect to amended claims 12, 15, 16, and 67 of the present application, such inquiry must be answered in the affirmative.

In the present application, claims 3, 65, and 66 have been cancelled. Applicant has amended claims 12 and 67 to recite the limitation that the peptide "has binding affinity for one or more neuronal growth inhibitor molecules selected from the group consisting of Nogo, Nogo66 and/or myelin associated glycoprotein (MAG)." Support for this amendment can be found in claim 68, which the Examiner has indicated appears to be allowable at page 9 of the instant Official Action. Claims 15 and 16 depend from amended claim 12. Accordingly, Applicant submits that claims 12, 15-16, and 67 are definite on their face as the skilled artisan would be readily apprised of the metes and bounds of these claims as amended.

In light of the foregoing remarks and claim amendments, Applicant respectfully request that the above-mentioned rejections under 35 U.S.C. §112, second paragraph be withdrawn.

#### **CONCLUSION**

It is respectfully requested that the amendments presented herewith be entered in this application. These amendments and remarks are believed to clearly place the pending claims in condition for allowance. Therefore, it is respectfully urged that the rejections set forth in the June 12, 2007, Official Action be withdrawn and that this

application be passed to issue.

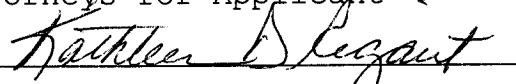
In the event the Examiner is not persuaded as to the allowability of any claim, and it appears that any outstanding issues may be resolved through a telephone interview, the Examiner is requested to telephone the undersigned at the phone number give below.

Respectfully submitted,

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